

September 6, 2006 BZA



REQUEST ANALYSIS
AND
RECOMMENDATION

07AN0105

Horace L. and Gene W. Stancil

Matoaca Magisterial District
Vicinity of 5100 Hickory Road

REQUEST: A Variance to use a parcel of land which has no public road frontage for dwelling purposes in an Agricultural (A) District.

RECOMMENDATION

Recommend denial of this Variance for the following reasons :

- A. There are no physical surroundings, shape or topographical conditions on this property that a particular hardship would result to the owner if the requirements of the Zoning Ordinance were carried out and a public road constructed to State standards.
- B. Staff finds there are no extraordinary circumstances or conditions applying to this property which do not apply generally to all other properties in the immediate area.

GENERAL INFORMATION

Location:

This request lies on twenty (20) acres located 1,050.44 feet northeast of Hickory Road, measured from a point approximately 0.65 mile southeast of Russwood Road in the vicinity of 5100 Hickory Road. Tax ID 787-617-Part of 7040 (Sheets 41 and 45).

Existing Zoning:

A

Size:

20 acres

Existing Land Use:

Vacant

Adjacent Zoning and Land Use:

North - A; Vacant
South - A; Residential and vacant
East - A; Residential
West - A; Residential and vacant

Utilities:

Private well and septic system

Environmental Engineering:

There is a Resource Protection Area (RPA) located on the subject property. The RPA cuts into the parcel in such a way that 1/3 of it is on the north side of the creek. Environmental Engineering could support this request if the proposed dwelling is located south of the creek.

General Plan:

(Southern and Western Area Plan)

Residential
(1.01 – 2.5 units per acre)

DISCUSSION

The applicants request a Variance to use a parcel of land which has no public road frontage for dwelling purposes. The applicants have indicated the access to the subject property will be over a thirty (30) foot private easement from Point A to Point B, as shown on the attached plat.

The applicants provide the following justification in support of this request:

See Attachment A

The subject property (parent parcel) consists of 49.415 acres and is owned by Horace and Gene Stancil. The property was purchased by Horace and Gene Stancil's sister, Shirley S. Hoffman, in 2002. She gave Gene Stancil's daughter and son-in-law, Rebecca and Nathan Patten, a rent-to-own contract on the existing dwelling and part of the parent parcel (9.415 acres). In order to carry out the wishes of their sister, Horace and Gene (current property owners) would like to divide the subject

property into three (3) family parcels. This would consist of 9.415 acres to Gene's daughter, twenty (20) acres to Gene Stancil and twenty (20) acres to Horace Stancil (see attached plat). This request is for the first twenty (20) acre parcel which does not meet the public road frontage requirement of the Zoning Ordinance (Sec. 19-551).

The Board of Zoning Appeals hears requests for no public road frontage, when the subject property was recorded prior to 1980, is being subdivided and sold or given to a member of the property owner's immediate family, or complies with the plat validation process. In this case, the property is being sold or given to a member of the property owners' immediate family.

Staff reviewed the plat and visited the subject property. Staff observed an existing dwelling with road frontage located at 5100 Hickory Road and consisting of 49.415 acres. The applicants are requesting a Variance for no public road frontage for the twenty (20) acres located behind the proposed 9.415 acres. The applicants have indicated that the subject property will use a thirty (30) foot private access easement for ingress and egress (see attached plat). This access is currently unimproved.

The Chesterfield County Fire Department has requested that applicants with this type of request provide a fifteen (15) foot wide, all-weather road from the State maintained road to the dwelling capable of supporting fire equipment and/or ambulances. The road shall have at least a fourteen (14) foot clearance to overhanging objects. Conditions 2(b), 2(c) and 2(e) address their concerns.

As required by the Zoning Ordinance, the applicants have not provided any information that would serve as a basis for granting this Variance. No physical surrounding shape or topographical conditions exist on the property that would present a particular hardship to the property owner if this Variance were denied. There are no conditions upon which this request is based which are unique to the property and do not apply generally to other properties in the area.

This request is based on financial consideration rather than physical hardship or other conditions that are not applicable to other properties in the area. Therefore, staff cannot support this request.

Staff believes that the Board should deny this request for the reasons previously noted.

However, if the Board feels that this request has merit, staff recommends that it be subject to the following conditions:

CONDITIONS

1. When the applicants apply for a building permit, the applicants shall provide a copy of a recorded instrument which will include:

A thirty (30) foot wide private access easement from Point A to Point B as shown on the plat attached to the staff report.
2. The private access easement shall meet the following requirements:

- (a) The instrument shall require that no structure or fence shall be constructed to block the easement and shall require the land owner of the subject parcel to be responsible for maintenance of the access in accordance with the standards set forth below;
 - (b) A fifteen (15) foot wide roadway shall be constructed and maintained to all weather standards from Point A to Point B. Prior to issuing a Certificate of Occupancy, the Planning Department shall inspect this roadway to determine its compliance with the following standards:
 - (c) The roadway shall consist of not less than the following: compacted soil sub-base with six (6) inches of compacted 21-B crushed stone. If an asphalt based surface is to be applied, it shall be designed and constructed to Chesterfield County subdivision street requirements or an equivalent design approved by the Subdivision Team, capable of supporting the projected 75,000 pound vehicle weight. The roadway shall not be approved if it is rutted or potholed and shall be maintained to this standard.
 - (d) There shall be an additional three (3) foot clear area beyond the edge of the roadway.
 - (e) There shall be a minimum vertical clearance of fourteen (14) feet of area above the roadway.
 - (f) The roadway shall have a maximum grade of ten (10) percent with an appropriate transition at the street connection.
 - (g) The minimum inside turning radius for any curve shall be twenty-seven (27) feet.
 - (h) Any cross drains shall be designed to accommodate a minimum ten (10) year storm.
3. The house number shall be installed on the mailbox or a pole and located at the driveway entrance of the State maintained road as well as at the driveway entrance to the property. The house numbers shall be displayed in at least four (4) inch high numbers.
4. The subject property shall not be further subdivided, including any family subdivisions, unless public road frontage is provided.

07 APR 2006

A

4/28/06

Kirk Turner, Director
Department of Planning
9901 Lori Road, Box 40
Chesterfield, Va. 23832-0040

Dear Kirk Turner,

Thursday, 4/27/06 my brother, Horace Stancil, and I, Gene Stancil, had an appointment with Amy Somervell concerning property at 5100 Hickory Road. Ms. Somervell suggested that we write a letter to you concerning the division of this property.

The property was purchased by our sister, Shirley S. Hoffman, in 2002, with the expressed purpose of helping my daughter, son-in-law, and their children establish a home. She gave them a rent-to-own contract on the house, and 9.415 acres of land, enabling them to start accruing equity from the very first payment.

The price was established at that time, and they were to be able to refinance as soon as they could qualify for a loan. Our sister was not aware of the regulations pertaining to a farm.

Shirley died in August 2005, leaving her entire estate to my brother and I. We are co-executors of the estate. Trying to carry out her wishes, we would like to divide this property into three family parcels:

One parcel 9.415 acres that includes the farm house to my daughter, and son-in-law, Rebecca & Nathan Patten who have lived there with their children (now four) since the day the property was purchased.

One 20 acre parcel to me, Gene W. Stancil, and One 20 acre parcel to my brother, Horace L. Stancil who wishes to sign his over to his daughter, Penny L. Livingston.

We are asking your permission to do the division in this manner, and also asking you to waive the two year rule.

My daughter and son-in-law are not getting any of the tax benefits of buying a home. They would like to finance this piece of property in their name as soon as possible.

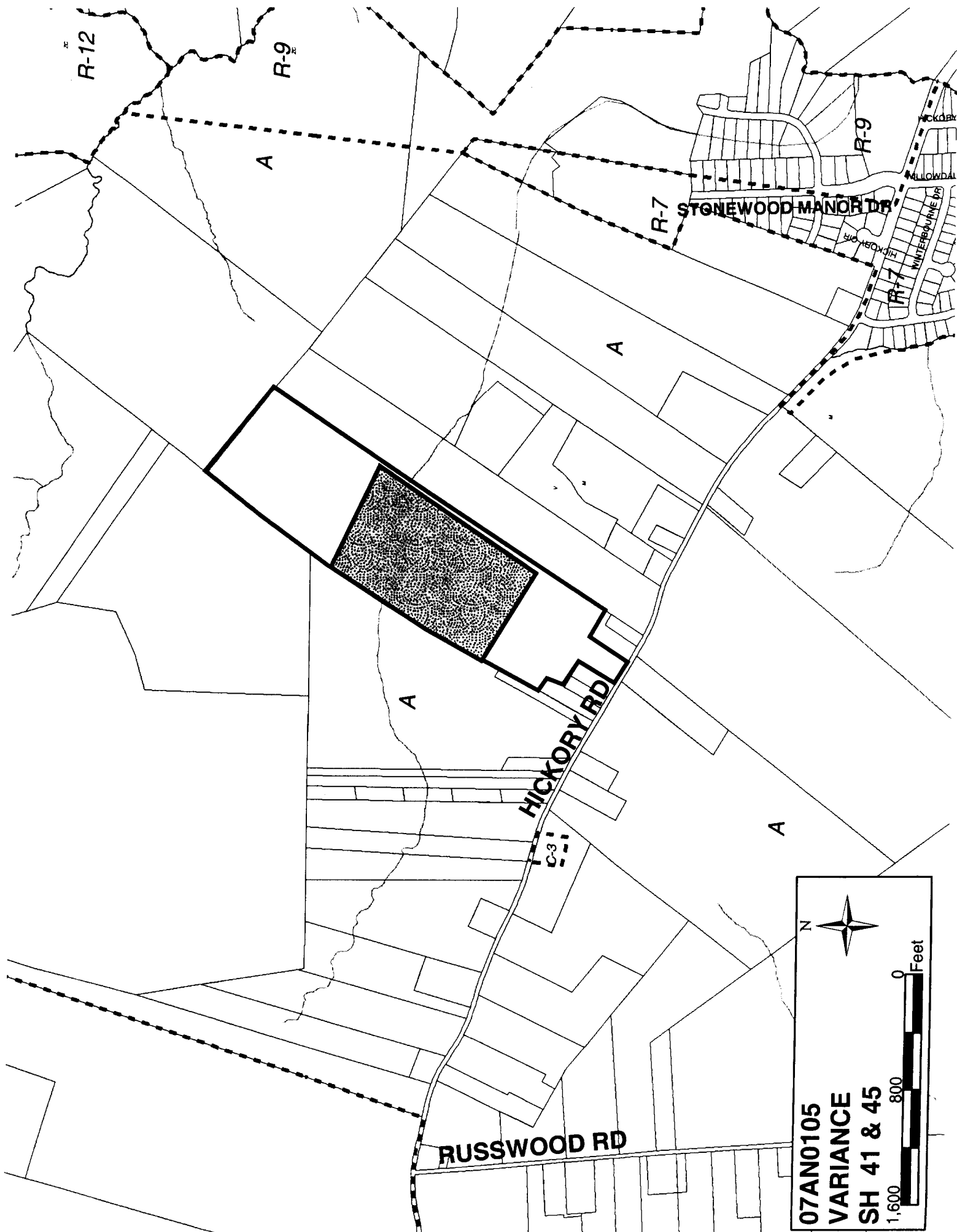
I can provide overviews of the survey to show what the division would look like.

Ms. Somervell was most helpful and a pleasure to work with. She may be able to provide any information I may have left out.

Thank you for your time and consideration of this matter.

Gene W. Stancil
7720 River Road
Petersburg, Va. 23803
Phone # (804) 590-2135, cell (804) 691-3650

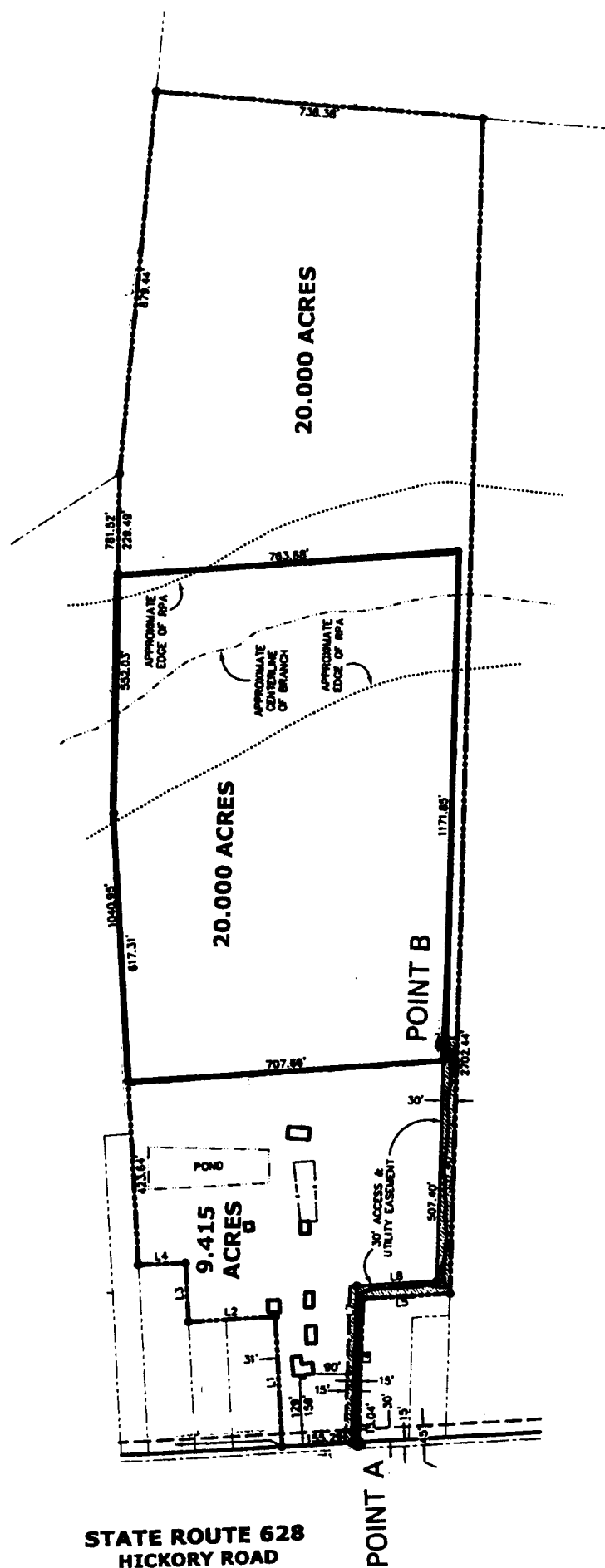
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PLANNING DEPT
KIRK TURNER



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